



Inherent Authority to Defer and Dismiss a Criminal Case (HB 2513)

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Study Authorization



- House Bill 2513, introduced by Delegate Todd Gilbert during the 2011 Regular Session of the General Assembly, would have statutorily prevented trial courts from taking criminal cases under advisement, with a later dismissal of the charges upon completion of terms and conditions, unless statutorily authorized to do so.
 - Examples of offenses for which deferrals and dismissals are allowed by statute are first time drug possession (Va. Code § 18.2-251), and first time domestic assault (Va. Code § 18.2-57.3).

Background



- House Bill 2513 was introduced in response to Hernandez v. Commonwealth, 281 Va. 222 (2011).
- In that case, the Virginia Supreme Court appeared to hold that trial courts have an inherent authority to take criminal cases under advisement, place the defendant on terms of bond that resemble probation, and at a later date, dismiss the charges.

Background



- In the Hernandez case, the Supreme Court noted that “the act of rendering judgment is with the inherent power of the court,” and therefore, “it was within the inherent authority of the court to ‘take the matter under advisement’ or ‘continue the case for disposition’ at a later date.”
- The Court also held that “while such a case [is] pending, the court has statutory authority to continue bail requirements.”

Background



- However, the Court in Hernandez also observed that “once a court has entered a judgment of conviction of a crime, the question of the penalty to be imposed is entirely within the province of the legislature, and the court has no inherent authority to depart from the range of punishment legislatively prescribed.”
 - An “observation by the court as to the sufficiency of the evidence does not amount to a formal adjudication of guilt.”
 - “[A] court speaks only through its written orders.”

Background



- Significantly, the Supreme Court stated in Hernandez, “we [leave] open the question whether a court may defer judgment and continue a case with a *promise* of a particular disposition at a later date.”
 - “That question...is not before us here, as [this] case [did not involve] such a promise.”
 - In Hernandez, the defendant was found guilty by the trial court, which refused to allow a deferred disposition of the case.

Legal Analysis



- The Hernandez case repeatedly cites the case of Moreau v. Fuller, 276 Va. 127 (2008).
- The Moreau case also stands for the proposition that upon hearing the evidence in a criminal case, it is “within the inherent authority of the court to ‘take the matter under advisement’ or ‘continue the case for disposition’ at a later date.”



- The Supreme Court in Moreau also acknowledged, though, that the doctrine of the separation of powers means that “the judiciary... may not assume a power of clemency or pardon which is a unique function of executive power.”

Legal Analysis



- Recently, the Virginia Court of Appeals issued an important decision on the topic of deferred dispositions.
- In Taylor v. Commonwealth, the Court of Appeals held that a trial court does not have the inherent authority to reduce or dismiss a criminal charge when the evidence proves guilt beyond a reasonable doubt.

Legal Analysis



- In Taylor, the Court of Appeals held that it is a fallacy “that the power to enforce begets inherently a discretion to permanently refuse to do so.”
 - “[A] Virginia court cannot refuse to convict a guilty defendant merely because it questions the category of offense assigned by the legislature, considers the range of statutory punishment too harsh, or believes certain guilty offenders undeserving of a criminal conviction.”

Legal Analysis



- Although a petition of appeal was filed by the defendant in the Taylor case, the Virginia Supreme Court refused to grant the petition.
- Taylor v. Commonwealth is therefore binding law on Virginia trial courts at the present time.

Legal Analysis



- Reading the Hernandez case and the Taylor case in conjunction, the current state of the law in Virginia seems to be:
 - Trial judges, in criminal cases, have the inherent authority to defer issuing a final judgment.
 - During the time the court is taking a case under advisement, they can place the defendant on whatever conditions of bond are appropriate.
 - The trial court cannot take a case under advisement in perpetuity, or absolutely refuse to render a judgment.
 - The trial court cannot use its inherent authority as a means to provide leniency or give an acquittal to a defendant who is guilty of a crime.

Policy Considerations



- Should the legislature enact a statute that would prohibit a court from deferring a finding of guilt, deferring proceedings, or dismissing a case upon completion of terms, unless authorized by statute?



Discussion
